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3-5-1997

## Hot Topic: Three "Hot Topics" Affecting Tennessee Cities: New Vehicle Seizure Law For DUI Offenders and Driving on Revoked Driver's License; Insurance Portability and Accountability Act of 1996; Municipal Clerk Certification Grandfather Period Repealed

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### Recommended Citation

Barton, Rex, "Hot Topic: Three "Hot Topics" Affecting Tennessee Cities: New Vehicle Seizure Law For DUI Offenders and Driving on Revoked Driver's License; Insurance Portability and Accountability Act of 1996; Municipal Clerk Certification Grandfather Period Repealed" (1997). *MTAS Publications: Hot Topics*. [https://trace.tennessee.edu/utk\\_mtastop/209](https://trace.tennessee.edu/utk_mtastop/209)

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# **Hot Topics** for Tennessee cities and towns

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March 5, 1997

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## **Three “Hot Topics” Affecting Tennessee Cities**

### **New Vehicle Seizure Law For DUI Offenders and Driving on Revoked Driver's License**

By Rex Barton  
MTAS Police Management Consultant

Effective January 1, 1997, law enforcement officers are authorized to seize the vehicle of defendants arrested for their second offense or more for Driving Under the Influence (DUI). Officers may also seize the vehicle of defendants arrested for Driving on a Revoked Driver's License (DRL), if the license was revoked because of a DUI conviction.

To seize the vehicle of a DUI defendant, at least one of the previous arrests must have occurred after January 1, 1997. There is no such exemption for seizing the vehicle of a defendant arrested for DRL, as long as the revocation was due to a DUI conviction, regardless of when the DUI conviction occurred.

The seizure process is identical to the process used for seizing drug-related vehicles (*Tennessee Code Annotated* 40-33-201—14). However, the seizing agency may keep only 15 percent of the sales proceeds after satisfying any liens. The remaining 85 percent must be remitted to the state.

Law enforcement agencies should view this process as a positive tool in their efforts to rid Tennessee roads of DUI offenders. For more information, contact the MTAS police management consultant at (423) 974-0411.

March 5, 1997

## **Insurance Portability and Accountability Act of 1996**

By Richard Stokes

MTAS Municipal Human Resource Management Consultant

President Clinton recently signed into law the Health Insurance Portability and Accountability Act of 1996. The purpose of the act is to protect workers from losing their health insurance coverage in cases where an individual wants to change jobs, loses his or her job, or wants to become self-employed. It does so by placing new restrictions on pre-existing condition exclusions, coverage termination, or limitations based on health status. The act is effective for plan years beginning after June 30, 1997. All plans must provide certification of prior coverage beginning June 1, 1997, and must be able to certify periods of coverage retroactive to July 1, 1996.

The provisions are applicable to group health plans (including government and church plans) and HMOs. The act establishes:

- ▶ two 30-day special enrollment periods,
- ▶ a nondiscrimination provision with regards to eligibility,
- ▶ premiums and contributions on the basis of health related factors,
- ▶ disclosure of benefit reductions whereby plans covered by the Employment Retirement Income Security Act must provide participants with a summary description of any reductions in service, and
- ▶ more latitude for states to adopt more stringent rules with regard to pre-existing condition limitations, and crediting of prior coverage and special enrollment periods.

The act also modifies the COBRA rules affecting individuals with disabilities, newborns, and newly adopted children by allowing them an additional 11 months of coverage. Individuals must pay 150 percent of the premium during the extension versus 110 percent under current COBRA Law.

MTAS is currently working on a comprehensive technical report outlining the various provisions of the act. For more information, contact MTAS' municipal management consultant, human resource management consultant, or the legal consultant in your area.

March 5, 1997

## **Municipal Clerk Certification Grandfather Period Repealed**

By Todd Moore  
MTAS Legal Consultant

After July 1, 1998, any city with a population of 1,500 or more that employs a person responsible for exercising any of the duties of municipal clerk or recorder, must employ one person meeting the certification requirements established by the Secretary of State (*T.C.A.* § 6-54-120).

Although this is not a new law, last year the General Assembly removed a provision from this statute that would have given anyone covered by this statute four years from March 21, 1994, or from the date of subsequent employment to receive certification.

**The effect of this change is to require all city clerks employed after July 1, 1998, to be certified immediately.** Any municipal clerks or recorders who are licensed to practice law in the state of Tennessee is exempt from these certification requirements.

For more information, contact the MTAS legal or management consultant in your area.

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### MTAS Mission Statement

The Municipal Technical Advisory Service (MTAS) was created in 1949 by the state legislature to enhance the quality of government in Tennessee municipalities. An agency of the University of Tennessee's Institute for Public Service, MTAS works in cooperation with the Tennessee Municipal League and affiliated organizations to assist municipal officials.

By sharing information, responding to client requests, and anticipating the ever-changing municipal government environment, MTAS promotes better local government and helps cities develop and sustain effective management and leadership.

MTAS offers assistance in areas such as accounting and finance, administration and personnel, fire, public works, law, ordinance codification, communications, and wastewater management. MTAS houses a comprehensive library and publishes numerous documents annually.

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